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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,271	07/15/2003	Jeffrey L. Brewer	1001.01	3522

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EXAMINER
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NGUYEN, CAMTU TRAN

ART UNIT	PAPER NUMBER
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3772

MAIL DATE	DELIVERY MODE
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09/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/623,271

Applicant(s)

BREWER, JEFFREY L.

Examiner

Camtu T. Nguyen

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3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,9-13,16 and 18-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,9-13,16 and 18-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This Office Action is responding to applicant's amendment filed on June 25, 2007.

Claims 1, 10, 16, and 27 have been amended.

Applicant's made comments against primarily on the independent claims 1, 16, 23, 27, and 30 are acknowledged however, deemed, not persuasive for the reasons below.

With regards to independent claim 1, the Wang reference discloses the swivels (50, 54) movably connects the hand support (12) to the forearm support (14), Figure 4 illustrates the arm support moves relative to the forearm support in three positions. Clearly, The Wang swivels (50, 54) anticipates applicant's claim 1.

With regards to independent claim 16 relating to the position of Wang's hand support (12) relative to the user's limb, Figure 2, as shown can be applied to the user such that the user's arm is cradled the device such that the inside surface of the hand support (12) faces the user's dorsal surface, thereby, hand support (12) unit is positioning under the dorsal surface of the user's hand, which would allow the Wang's straps (78, 80) to position over the palm surface of the user's hand.

With regards to independent claims 23, 27, and 30 pertaining to the Wang's swivels (50, 54) does not allowing the hand support (12) to move relative to the forearm support (14) in a lateral fashion are acknowledged, however, has not overcome the Wang prior art, as applied. Specifically, the limitation "lateral fashion" in these claims does not define to which axis and on what plane the swiveling is relative to, therefore, in that respect, the Wang's hand support (12)

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swivels relative to the forearm (14) in the lateral fashion with respect to the swivels (50, 54) axes which is most common axis configured to lie parallel to the axis of bending the wrist.

Furthermore, such interpretation is within reason and consistent with the specification on page 13 lines 3-8, supporting the disclosing of the swivel joint (95) is accepted by both apertures (28, 58) and provides the metacarpal unit (30) to move in lateral fashion and that the swivel joint (95) allowing up to a 60° turn on each of its horizontal axis providing for normal movement of the carpal region and such description is supported by applicant's drawing of Figure 8.

For the reasons mentioned above, the Wang reference stand rejected.

The claims, as amended, have been carefully considered and are rejected as follows.

### ***Claim Objections***

Claims 16 and 27 are objected to because the limitation "a metacarpal pad" is not consistent with the specification. Did applicant intend for it to recite "an internal pad" instead?

Claims 1, 16, 23, 27, and 30 are objected to because the limitation "an attachment member" is not consistent with the specification. Did applicant intend for it to recite "an attachment means" instead?

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 27 recites the limitations "said internal pad" and "said external casing" in the first wherein statement.

There is insufficient antecedent basis for these limitations in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 3-5, 9-13, and 21-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Wang (U.S. Patent No. 6,443,918). Wang discloses an adjustable splint (10) comprising elements as recited in these claims including a arm support (12), a forearm support (14), both of which are connected to each other at the lateral pivotal arms (26, 28) and medial pivotal arms via swivels (50, 54) which may be a rivet or other fastener, Figures 1 and 2 illustrate straps (76, 78) provided to secure the device to the limb of the patient. Figure 2 illustrates a pad (74) is removably fitted within the supports (12, 14). With regards to the recess recited in claim 16, the Wang device discloses in Figure 1 the forearm support (14) having holes (22) formed therein, for easy bending of the support (14), thus, providing the trap (78) easy access to the foam pad (74).

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With regards to claim 4, the Wang device is formed of injection-mold plastic (column 3 lines 65-66).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 16-22, 29, 31, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent No. 6,443,918). Wang discloses an adjustable splint (10) comprising elements as recited in these claims but does not teach a fastener situated on the interior surface of support member, thus, extending between the support member and the support pad. However, applicant discloses in the specification that the support pad (12) may be fastened to the interior surface (59) by hook and loop material such as VELCRO, adhesive, pins, screws, buttons and the like (see page 9 lines 15-17), the hook and loop material such as VELCRO is not new in the art of fastening therefore, one of ordinary skilled in the art of splints would have been motivated to utilize the well known hook and loop (VELCRO) to fastening the Wang's pad (74) and splint (10) as such would prevent any slippage during usage. With regards to the stop, as recited, the Wang splint (10) discloses a leaf spring (60) disposed in the interior cavity (68) of splint (10) and engages notches (32) with latch (70), thus, limiting the movement of the forearm support (14).

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Camtu Nguyen  
September 17, 2007

  
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